

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ESPN, INC.,

Plaintiff,

- vs -

QUIKSILVER, INC.,

Defendant.

CIVIL NO.: 08 Civ. 4222 (CM) (MHD)

**DECLARATION OF RICK  
ALESSANDRI**

QUIKSILVER, INC.,

Counterclaimant,

- vs -

ESPN, INC.,

Counterdefendant.

**DECLARATION OF RICK ALESSANDRI**

RICK ALESSANDRI, declares under penalty of perjury that the following is true and correct:

1. I am the Senior Vice President and General Manager of Consumer Products, and Managing Director of the X Games franchise of Plaintiff-Counterdefendant ESPN, Inc. ("ESPN"). I submit this Declaration in opposition to Defendant-Counterclaimant Quiksilver, Inc.'s ("Quiksilver") motion to transfer this action to California.

2. It is my understanding that Quiksilver seeks to move this action to California and has asserted that (1) it is an "unlikely scenario" that ESPN's witnesses who may be called upon

to testify in this action are residents of the East Coast, and (2) that ESPN does not have a connection to New York. Quiksilver is incorrect.

### **ESPN'S NEW YORK CITY OFFICES**

3. ESPN has six offices in New York City ("The ESPN NYC Offices"). These offices are located at the following addresses: (1) 605 3rd Avenue (the "Third Avenue Office"); (2) 77 West 66th Street (the "66th Street Office"); (3) 19 East 34th Street (the "34th Street Office"); (4) 1500 Broadway (the "Broadway Office"); (5) 47 West 66th Street (the "47 West Office"); and (6) 2 Penn Plaza (the "Penn Plaza Office").

4. The ESPN NYC Offices house 1,118 ESPN employees and comprise an area of 280,307 square feet. The square footage and employees per office are as follows:

- |    |                      |   |
|----|----------------------|---|
| a. | Third Avenue Office: | 53,441 square feet on 2 floors, 176 employees.  |
| b. | 66th Street Office:  | 109,600 square feet on 5 floors, 412 employees. |
| c. | 34th Street Office:  | 54,533 square feet on 2 floors, 280 employees.  |
| d. | Broadway Office:     | 26,108 square feet on 2 floors, 85 employees.   |
| e. | 47 West Office:      | 29,882 square feet on 2 floors, 90 employees.   |
| f. | Penn Plaza Office:   | 6743 square feet on 1 floor, 75 employees.      |

### **THE X GAMES TEAM**

5. My office is located in the Third Avenue Office along with several members of the team of ESPN employees who assist me on all matters pertaining to the X Games franchise. These matters obviously include the development, use and promotion of the X Games trademarks that Quiksilver is infringing.

6. X Games team members also work in various other ESPN NYC Offices. The following is a list of their names, titles, and what information they have pertaining to this dispute:

- a. Dave Finger, Director, EXPN.com. Dave works out of the 34th Street Office and has information pertaining to online advertising using the X GAMES MARKS.
- b. Kevin Kirksey, Senior Director, Brand Franchises. Kevin works out of the 66th Street Office, and has information pertaining to the creation, development, and use of the X GAMES MARKS.
- c. Katie Lacey, Senior Vice President, Marketing. Katie works out of the 66th Street Office has information pertaining to marketing efforts involving the X GAMES MARKS.
- d. Aaron Taylor, Vice President, Marketing. Aaron works out of the 66th Street Office and has information pertaining to marketing efforts involving the X GAMES MARKS.
- e. Chris Brush, Vice President, Brand Extensions and Development. Chris works out of the 66th Street Office, and has information pertaining to development of X Games franchise and branding and use of X GAMES MARKS.
- f. Kathleen Sullivan, Senior Director, Sports Management. Kathleen works out of the 66th Street Office and has information pertaining to sales and sponsorships related to X GAMES properties.
- g. John Gassner, Senior Director, International X Games. John works out of the 66th Street Office, and has information pertaining to use of the X GAMES MARKS, particularly as they are used on a global scale.

- h. Mascha Jooren, Sponsorship and Marketing Partnership Associate Director. Mascha works out of the 66th Street Office, and has information pertaining to marketing and sponsorships of the X GAMES MARKS.
  - i. Steve Cipolla, Vice President, Consumer Products and Licensing. Steve works with me in the Third Avenue Office, and has information pertaining to ESPN's licensing of the X GAMES MARKS.
  - j. Steve Tedder, Senior Director, Marketing. Steve also works with me in the Third Avenue Office, and has information pertaining to advertising, licensing, and sponsorship of consumer products bearing the X GAMES MARKS.
  - k. Francisco Arenas, Senior Director, Consumer Products Licensing. Francisco works with me in the Third Avenue Office, and has information pertaining to licensing bearing the X GAMES MARKS.
  - l. Chris McClure, Senior Director, Creative Consumer Products. Chris works with me in the Third Avenue Office, and has information pertaining to consumer products bearing the X GAMES MARKS.
  - m. Christine Konyak-Parker, Sr. Director - Apparel and Accessories Consumer Products. Christine works with me in the Third Avenue Office, and has information pertaining to X Games soft goods categories, most of which bear the X GAMES MARKS.
  - n. Zachary Block, Associate Director - Business Development. 605 3rd Ave., New York, NY. Has information pertaining to business development of X Games franchise including use of X GAMES marks.
7. There are a number of individuals in ESPN's Bristol, Connecticut offices that are also

privity to information relevant to ESPN's claims against Quiksilver. These ESPN employees are:

- a. Amy Lupo, Senior Director, Marketing & Content. Amy has information pertaining to X Games marketing and public relations.
- b. Rich Feinberg, VP of event production. Rich has information pertaining to X GAMES events, including the placement of X GAMES MARKS.
- c. Phil Orlins, Coordinating Producer. Phil has information pertaining to the content of the X Games broadcasts including X GAMES MARKS used therein. In particular, Phil is the custodian of videos of all of the past X Games competitions.
- d. Chris Stiepock, Vice President and General Manager, X Games franchise. Chris has information pertaining to the production of X Games events.

#### **X GAMES LOCALES AND MERCHANDISE**

8. I understand that Quiksilver has asserted that ESPN's documents and personnel relating to the X Games must be in California due to the fact that the Summer X Games have been held there for the past few years. As discussed above, this is not the case, as my team works out of New York City. Regardless, the X Games is not a local California sports competition<sup>1</sup>, but a global enterprise with events as big as the Summer X Games in Los Angeles taking place in cities in the U.S. internationally, and merchandise and apparel bearing the X Games trademarks sold at stores all over the country.

9. The Winter X Games have taken place in Aspen, Colorado, every winter since 2002, and will take place there again this coming January, 2009 and again in 2010. The

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<sup>1</sup> The Summer X Games have taken place 13 times, and only 5 of those were in Los Angeles.

Winter X Games is as large of an event as the Summer X Games, and the X Games Marks are ubiquitous in Aspen during the event.

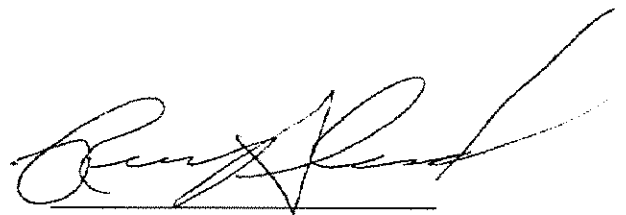
10. Other X Games competitions have recently taken place in Shanghai, China; Beijing, China; Mexico City, Mexico; Dubai, UAE; and Sao Paulo, Brazil. Some of these events have been held before crowds surpassing 50,000 people, are televised internationally, and streamed through ESPN's website.

11. Apart from the events, X Games apparel and merchandise such as bikes, fly-box ramps, helmets, bedding, and DVDs, all bearing the X Games trademarks, are sold at retailers in New York and across the country including Target, Wal-Mart, Hallmark (Gold Crown Stores), Walgreens, CVS, Duane Reade, PBTeen, Champs, Eastbay, Famous Footwear, Lenscrafters, and Express Vision. X Games products are also promoted or sold online at [www.xgamesgear.com](http://www.xgamesgear.com), [www.espnshop.com](http://www.espnshop.com), and [www.walmart.com](http://www.walmart.com).

12. As a result, I assume that any of these locations have information relating to the X Games, much like any baseball stadium across the country has information relating to Major League Baseball's trademarks, or any department store employee sees the trademarks on the clothing it sells. Yet this does not change the fact that the documents and individuals that comprise the heart of the X Games franchise are located in New York.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of June, 2008.



RICK ALESSANDRI